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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2004 63820

TODD DAVID WARD, P.T.
894 Loggers Circle
Rochester, Michigan, 48307

A C C U S A T I O N

Physical Therapist License No. PT 29006

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about December 11, 2003, the Physical Therapy Board of California issued Physical Therapist License Number PT 29006 to Todd David Ward, P.T. (Respondent). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2005, unless renewed.

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4. Section 2609 of the Code states:

The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

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1 (i) Conviction of a violation of any of the provisions of this chapter or
2 of the State Medical Practice Act, or violating, or attempting to violate, directly or
3 indirectly, or assisting in or abetting the violating of, or conspiring to violate any
4 provision or term of this chapter or of the State Medical Practice Act.

5 (j) The aiding or abetting of any person to violate this chapter
6 or any regulations duly adopted under this chapter.

7 (k) The aiding or abetting of any person to engage in the
8 unlawful practice of physical therapy.

9 (l) The commission of any fraudulent, dishonest, or corrupt act
10 which is substantially related to the qualifications, functions, or duties of a
11 physical therapist or physical therapy assistant.

12 (m) Except for good cause, the knowing failure to protect
13 patients by failing to follow infection control guidelines of the board,
14 thereby risking transmission of blood-borne infectious diseases from
15 licensee to patient, from patient to patient, and from patient to licensee. In
16 administering this subdivision, the board shall consider referencing the
17 standards, regulations, and guidelines of the State Department of Health
18 Services developed pursuant to Section 1250.11 of the Health and Safety
19 Code and the standards, regulations, and guidelines pursuant to the
20 California Occupational Safety and Health Act of 1973 (Part 1
21 (commencing with Section 6300) of Division 5 of the Labor Code) for
22 preventing the transmission of HIV, Hepatitis B, and other blood-borne
23 pathogens in health care settings. As necessary, the board shall consult
24 with the Medical Board of California, the California Board of Podiatric
25 Medicine, the Board of Dental Examiners of California, the Board of
26 Registered Nursing, and the Board of Vocational Nursing and Psychiatric
27 Technicians, to encourage appropriate consistency in the implementation
28 of this subdivision.

1 The board shall seek to ensure that licensees are informed of the
2 responsibility of licensees and others to follow infection control
3 guidelines, and of the most recent scientifically recognized safeguards for
4 minimizing the risk of transmission of blood-borne infectious diseases.

5 (n) The commission of verbal abuse or sexual harassment.

6 6. Section 2661.5 of the Code states:

7 (a) In any order issued in resolution of a disciplinary
8 proceeding before the board, the board may request the administrative law
9 judge to direct any licensee found guilty of unprofessional conduct to pay
10 to the board a sum not to exceed the actual and reasonable costs of the
11 investigation and prosecution of the case.

12 (b) The costs to be assessed shall be fixed by the administrative
13 law judge and shall not in any event be increased by the board. When the
14 board does not adopt a proposed decision and remands the case to an
15 administrative law judge, the administrative law judge shall not increase
16 the amount of the assessed costs specified in the proposed decision.

17 (c) When the payment directed in an order for payment of costs
18 is not made by the licensee, the board may enforce the order of payment by
19 bringing an action in any appropriate court. This right of enforcement shall
20 be in addition to any other rights the board may have as to any licensee
21 directed to pay costs.

22 (d) In any judicial action for the recovery of costs, proof of the
23 board's decision shall be conclusive proof of the validity of the order of
24 payment and the terms for payment.

25 (e)(1) Except as provided in paragraph (2), the board shall not
26 renew or reinstate the license or approval of any person who has failed to
27 pay all of the costs ordered under this section.

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1 (2) Notwithstanding paragraph (1), the board may, in its
2 discretion, conditionally renew or reinstate for a maximum of one year the
3 license or approval of any person who demonstrates financial hardship and
4 who enters into a formal agreement with the board to reimburse the board
5 within that one year period for those unpaid costs.

6 (f) All costs recovered under this section shall be deposited in
7 the Physical Therapy Fund as a reimbursement in either the fiscal year in
8 which the costs are actually recovered or the previous fiscal year, as the
9 board may direct.

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Fraud in Procuring License)
[Bus. & Prof. Code § 2660 (b)]

12 7. Respondent is subject to disciplinary action under Code section 2660 (b)
13 in that he obtained his physical therapy license fraudulently by not disclosing a criminal
14 conviction. The circumstances are as follows:

15 8. On or about October 23, 2003, Respondent signed an Application for
16 Physical Therapist Licensure which he submitted to the Board. On the application, question 18
17 asks the applicant, "Have you ever been convicted of, or pled nolo contendere to any offense in
18 any state in the United States or a foreign country?" Respondent answered "no" to the above
19 question.

20 9. On or about December 11, 2003, the Board issued Respondent physical
21 therapist license number PT 29006.

22 10. Respondent's answer of "no" to question 18 on the application for
23 licensure was false in that on or about November 30, 1989, Respondent was found guilty of
24 driving while under the influence in the State of Michigan, Sterling Heights District Court, Case
25 number 352695, was fined \$450.00, and had his driver's license restricted for 90 days.

26 11. Respondent's false answer on his physical therapist application for
27 licensure and thereafter his receipt of the license constitutes a fraud in procuring a license within
28 the meaning of Business and Professions Code section 2660 (b).

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[Bus. & Prof. Code § 2660 (1)]

13. Complainant incorporates paragraphs 8 through 10, above, as if fully set forth at this point.

PRAYER

1. Revoking or suspending Physical Therapist License Number PT 29006,
issued to Todd David Ward, P.T.;

3. Taking such other and further action as deemed necessary and proper.

Complainant